

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA
ex rel. MATTHEW DECKER,

Plaintiff,

v.

PENNSYLVANIA STATE UNIVERSITY,

Defendant.

CIVIL ACTION
No. 22-3895

JOINT STIPULATION OF DISMISSAL

Pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure and 31 U.S.C. § 3730(b)(1), Plaintiff the United States of America and Relator Matthew Decker, acting by and through their counsel, and pursuant to the terms and conditions of the Settlement Agreement executed on October 22, 2024, regarding this matter, jointly stipulate that: (1) all claims in the above-referenced action as to the Covered Conduct set out in the Settlement Agreement,¹ involving the Contracts identified in the Settlement

¹ The Covered Conduct, as defined in the Settlement Agreement, is the following: The United States contends that it has certain civil claims against Penn State arising from false claims submitted or caused to be submitted by Penn State as a result of its alleged failure, during the period from January 2018 to November 2023, to implement certain NIST SP 800-171 controls in connection with fifteen contracts or subcontracts (the “Contracts”). Each of the Contracts involved the collection, development, receipt, transmission, use, or storing of unclassified information for which NIST SP 800-171 controls are required, known as Covered Defense Information or Controlled Unclassified Information (“CDI/CUI”), and incorporated either DFARS 252.204-7008, DFARS 252.204-7012, or NASA FARS 1852.204-76 into its requirements. In particular, the United States contends that Penn State did not implement certain NIST SP 800-171 security requirements, and did not adequately document, develop and implement plans of action designed to correct deficiencies and reduce or eliminate vulnerabilities in the systems involved in the performance of the Contracts. The United States contends that, beginning in November 2020, Penn State disclosed in its submissions to the SPRS that it had

Agreement,² shall be dismissed with prejudice; and (2) any other claims are dismissed with prejudice as to Relator and without prejudice as to the United States.

not implemented certain NIST SP 800-171 security requirements. Penn State also allegedly knowingly misstated, in its submissions to the Supplier Performance Risk System (SPRS), the dates by which it expected to implement all 110 of NIST SP 800-171's requirements for those systems and failed to pursue plans of action for their implementation. Additionally, for certain of the Contracts, the United States contends that Penn State did not use an external cloud service provider that met the security requirements in the FedRAMP Moderate baseline, in violation of DFARS 252.204-7012(b)(2)(ii)(D).

² The Contracts identified in the Settlement Agreement are the following:

1. Advanced Technology International, subcontract CWMD 2018-867 to OTA W15QKN-18-9-1004
2. Advanced Technology International, Master Agreement 2021-378 for Naval Surface Technology and Innovation Consortium:
 - a. Task Order 1 NSTIC-20-01-041 N001782190019
 - b. Task Order 2 NSTIC-20-01-055 N001782190010
 - c. Task Order 3 NSTIC-20-01-052 N001782190009
3. Advanced Cooling Technologies, Inc., subcontract 41768 to HQ086021C7000
4. Battelle Ohio, PO US001-0000812865 to HR001121C0029
5. Innovative Technology Applications Company, LLC, subcontract 233535 to N00014-20-P-1002
6. Invercon, LLC, subcontract 201040 to FA8650-17-C-5067
7. Lockheed Martin Aeronautics Company, PO 6574020275 to N00014-17-C-1020
8. Project sub-agreement M2200284 to University Consortium for Applied Hyper-sonics Agreement number HQ00342190007
9. N0002418D6401, Proposal 26742-VS
10. N0002418D6401, Delivery Order N0002421F8385
11. NextGen Aeronautics, Inc., PO 15-04 to W15QKN15C0029
12. Physical Sciences Inc., subcontract 72977-1926-46 to HQ0147-16-C-7808
13. Pratt and Whitney, Agreement No. 22205 Task Order 146 to 80GRC-021-C-A008
14. Reaction Systems, Inc., subcontract 7405-1901 to FA8650-19-C-2405
15. Ultramet, subcontract 18046 to FA8649-21-P-0434

Respectfully submitted,

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APPROVED AND SO ORDERED:

/s/ Lynne A. Sitarski

LYNNE A. SITARSKI

United States Magistrate Judge

Date: 11/01/2024

CERTIFICATE OF SERVICE

I certify that the above document has been served on all counsel of record via electronic filing and is available for viewing and downloading from the ECF System.

/s/ Peter Carr
PETER CARR
Assistant United States Attorney

Dated: November 1, 2024